

JUSTICE DENIED

Impacts of the government's
reforms to legal aid and court
services on access to justice

This research has been carried out by the Speak Up for Justice campaign, which calls for an integrated, accountable and publicly owned justice system that is properly staffed and funded. The campaign involves the TUC, FDA, GMB, Napo, PCS, POA, UCU, UNISON and Unite.

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PHOTOGRAPHY

The pictures in this report do not feature any staff or interviewees that took part in this research.

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EXECUTIVE SUMMARY

» OUR SYSTEM OF JUSTICE HAS BECOME UNAFFORDABLE TO MOST. IN CONSEQUENCE THERE HAS BEEN A CONSIDERABLE INCREASE OF LITIGANTS IN PERSON FOR WHOM OUR CURRENT COURT SYSTEM IS NOT REALLY DESIGNED. « **LORD CHIEF JUSTICE, 2015¹**

This research aims to add to the existing body of evidence which has looked at the impacts of the government's reforms to legal aid and court services and cuts to these budgets – on access to justice. The Legal Aid, Sentencing and Offenders Act 2012 (LASPO) came into effect in 2013 with the aim of cutting £220m from the legal aid budget per year by 2018–19. Between 2010–11² and 2015–16,³ the Ministry of Justice budget has been cut by £1.8bn, a decrease of 20 per cent.

LASPO removed a number of areas from the scope of civil legal aid and increased the threshold for eligibility (see Appendix 1). According to the Law Society, the high threshold in LASPO means threats to life, health and liberty, or breaches of rights under the European Convention on Human Rights – if assistance is not provided.⁴

This research is being carried out in the context of the increasing fragmentation and marketisation of justice services. No public interest case for such reforms has been made by the government, and neither has the evidence base underpinning them been available for public scrutiny.

Justice Denied adds new and additional information through:

- » a survey of staff working in the justice sector, particularly courts, legal advice and representation and probation
- » interviews with representatives from organisations/coalitions who have expertise in the justice sector and who work with people accessing justice services
- » submission of Freedom of Information requests to the Ministry of Justice
- » analysis of statistics produced by the Legal Aid Agency.

Interviews were carried out with representatives from: the Howard League for Penal Reform, Islington Law Centre, the Justice Alliance, the Law Society, Rights of Women, Simpson Millar LLP Solicitors and Women's Aid.

Findings indicate that the government's reforms to legal aid have had a devastating impact on women's access to justice. In particular, women who have experienced or are at risk of experiencing domestic violence are being put at greater risk, along with their children. More widely, access to justice is also being denied to many in need of help, advice and representation in areas of civil law. This is ironic given the government's celebration of the 800th anniversary of the Magna Carta in 2015. Some of the key points raised by interviewees included:

- » Women and children are having unsafe contact with perpetrators of domestic violence. Legal aid cuts have meant that the ability to protect the child is more limited due to lack of access to representation.
- » Access to legal aid has to be front and centre of any government strategy to tackle violence against women and girls.
- » The government's reforms to legal aid have been devastating and denied justice to thousands of people, including some of the most vulnerable, in the civil area.
- » Changes to legal aid have been focused on cuts and the higher threshold now means that there is limited means for people to enforce their rights.

- » Financial savings from reforms to prison law legal aid are tiny. But the human and social cost is huge and out of kilter with the rest of the government's policy.
- » Demand for justice services remains high, but meeting the needs of those who require help is now more challenging following government reforms and cuts to legal aid.
- » Court closures will have an enormous impact on justice around the country, as witnesses may not be able to get to a local court now.
- » There are few areas left in the scope of civil legal aid and fewer lawyers are taking on the work due to cuts in fees and their income. Undertaking legal aid work is no longer viable for some firms.

As part of the budget cuts to the Ministry of Justice, the budget for Her Majesty's Courts and Tribunals Service (HMCTS) has been cut by £157m (16 per cent)⁵ between 2010–11 and 2015–16, and for the Crown Prosecution Service (CPS) the cut has been £129m (21 per cent) in the same period.⁶ These budget cuts have led to cuts to staffing. At HMCTS staffing has been cut by 22 per cent during this period,⁷ and by 25 per cent at the CPS.⁸ Evidence in this report indicates that these cuts are lessening the effective and efficient delivery of justice services.

The survey of 141 members of staff revealed the following key findings:

- » Four in five respondents believe that the government's reforms to legal aid have had a detrimental impact on access to justice.
- » According to 87 per cent of respondents, the increase in litigants in person has had a detrimental impact on the ability of family and civil courts to deliver justice fairly, effectively and efficiently.
- » The majority of respondents (90 per cent) viewed budget cuts to court services and the Crown Prosecution Service as being detrimental to the effective delivery of justice and this in turn was seen as diminishing access to justice.
- » Over two-thirds of respondents (67 per cent) believe that cases are taking longer in duration since LASPO came into effect.



The government's reforms to legal aid have had a devastating impact on access to justice in the civil area © iD8 Photography/John Birdsall

- » More than half of those surveyed (56 per cent) believe that cases are taking longer to be listed and concluded since the reforms to legal aid came into effect.
- » Over two-thirds of respondents (71 per cent) stated that the previous round of court closures have had a negative impact on access to justice, the effective delivery of justice and on court users.
- » More than half of those surveyed (57 per cent) feel that their workloads have increased since 2010, and in many cases this was attributed to cuts to staffing combined with an increase in the volume in their work areas.
- » Changes to staffing and workloads over the last two to three years have resulted in, for example: the loss of experienced and permanent staff and an increase in the use of agency and temporary workers or staff on fixed-term contracts; an increase in stress, pressure and unpaid work; and an increase in errors, with quality of work affected.

» SERIOUS CONCERNS HAVE BEEN RAISED ABOUT LASPO BEING A BARRIER TO ACCESS TO JUSTICE FOR VICTIMS OF DOMESTIC VIOLENCE, AND THESE CONCERNS WERE REPEATEDLY RAISED DURING OUR INTERVIEWS WITH EXPERTS IN THE FIELD.«

» With regards to IT in courts, over half of respondents (54 per cent) agreed that 'IT sometimes works, but systems need improvement' and a further 34 per cent agreed that 'IT systems are unreliable which causes problems when cases are being heard'. Language used to describe IT systems included 'ancient', 'unreliable' and 'incompatible'.

The response to our Freedom of Information requests from the Ministry of Justice was not particularly clear or helpful (see page 26–28).

The response indicates that the Ministry of Justice has still not made any effort to assess whether the reduction in spending on civil legal aid is outweighed by additional costs in other parts of the public sector – as recommended by the Public Accounts Committee (2015). Without such an assessment the Ministry of Justice cannot demonstrate that it has met one of its key aims of the reforms, which was to deliver better value for money for taxpayers.

Although LASPO removed a number of areas from the scope of civil legal aid, the Ministry of Justice has still not carried out an in-depth analysis of the impacts of its reforms. Therefore, it is unclear whether people who need help, advice and representation in these areas are able to obtain this.

Most areas of private family law have been removed from the scope of civil legal aid. The limited areas remaining include, for example, cases of risk of domestic violence and forced marriage. Serious concerns have been raised about LASPO being a barrier to access to justice for victims of domestic violence, and these concerns were repeatedly raised during our interviews with experts in the field. Regulations relating to evidencing domestic violence remain too narrow and restrictive and other forms

of evidence, such as contact with women's specialist organisations, should be recognised. Our Freedom of Information requests relating to the impacts of LASPO on access to justice for victims of domestic violence were not fully answered. However, our analysis of statistics published by the Legal Aid Agency shows that between 2011–12 and 2015–16 the number of domestic violence applications received fell by 16 per cent, and the number granted declined by 17 per cent. Given the concerns that have been raised about access to justice for victims of domestic violence, the Ministry of Justice needs to investigate why there has been a decline and if/how this is related to the introduction of LASPO.

Since LASPO, legal help for debt matters is now only available through a mandatory telephone gateway set up by the government. Our analysis of legal aid statistics shows that there has been a 99 per cent drop in cases relating to legal help for debt between 2011–12 and 2015–16. Yet, according to recent research by the TUC, more than a million families with a household income below £30,000 are now in extreme debt, indicating that the decline in the number of cases is unlikely to reflect the actual need for debt advice. Legal aid for housing matters is now restricted and includes, for example, cases of possession proceedings, eviction and homelessness. Our analysis shows that cases relating to legal help and representation for housing matters has dropped by 64 per cent between 2011–12 and 2015–16, and yet in 2015 the number of tenants evicted by bailiffs reached a 15-year high. Legal aid for immigration no longer covers cases relating to nationality and visits, and these have dropped by nearly 100 per cent between 2011–12 and 2015–16. However, our interviewees highlighted that people are struggling to get advice in this area. The government recently announced that fees payable for applications to the first-tier tribunal

for asylum and immigration cases will rise from £80 to £490, among other increases,⁹ which is more than a six-fold increase.

While not covered by this report, access to justice has suffered from several other government policies as well, including the radical undermining of the system for claiming 'mere compensation' from a wrongdoer for personal injury, attacks on the Criminal Injury Compensation Scheme and sharp increases in court fees, the slashing of recoverable legal costs in personal injury cases (in LASPO and through the Claims Portal) and the introduction of prohibitive fees for employment tribunals. Plans have also been trailed to raise the small claims track limit for all personal injury cases to £5,000. This research does not consider the impacts of these changes but believes that those impacts are no less damaging to access to justice.



RECOMMENDATIONS

- » The government should ensure that access to legal aid is based on need and enables people to enforce their human right to justice.
- » The Ministry of Justice should carry out immediate and in-depth assessments of the impacts of budget cuts, LASPO and reforms to court services on access to justice. These should be done in collaboration with trade unions, other organisations with expertise in this field, those who use the justice system and other government departments. The assessments should include:
 - the impacts on equalities, and whether LASPO enables the UK to meet its obligations under ratified international conventions
 - the wider impacts on access to justice
 - the wider costs to the public sector and knock-on costs of the reforms
 - the impacts on court services and on the ability of the justice system to deliver justice fairly, effectively and efficiently.
- » There should be a moratorium on further budget and staffing cuts in the justice sector until the above assessments have been carried out.
- » There should be a pause on any further court closures until the government assesses the impacts of the last round of closures on access to justice, and on the potential impacts of the current round of closures. Technology should be developed in collaboration with staff and fully tested before being rolled out across court services.
- » Justice services should be seen as inter-connected and inter-dependent and based within the context of wider public services. Therefore any reforms should be viewed within a whole-system approach. The justice system should be recognised as a public service and a public good, and future government reforms should always take an evidence-based approach.

1. INTRODUCTION

This government and the previous coalition government have undertaken unprecedented reforms to the justice system, which have increased marketisation in the context of severe budget cuts.

This research aims to add to the existing body of evidence which has looked at the impacts of the government's reforms to legal aid and court services and cuts to these budgets – on access to justice. The focus of our research has been guided by particular research findings and recommendations and some of these are referred to below.

The government's stated aims of LASPO¹⁰ were to:

- » discourage unnecessary and adversarial litigation at public expense
- » target legal aid to those who need it most
- » make significant savings in the cost of the scheme
- » deliver better overall value for money for the taxpayer.

In 2015, the House of Commons Justice Select Committee report on the impacts of LASPO concluded that "while it had made significant savings in the cost of the scheme, the Ministry had harmed access to justice for some litigants and had not achieved the other three out of four of its stated objectives for the reforms". The Committee stated that "The Ministry's significant savings are potentially undermined by its inability to show that it has achieved value for money for the taxpayer." It added that because the Ministry of Justice had targeted legal aid at the point after a crisis had developed, such as housing repossession cases, "there have therefore been a number of knock-on costs, with costs potentially merely being shifted from the legal aid budget to other public services, such as the courts or local authorities". The Committee recommended that "the Ministry must assess and quantify these knock-on costs if it is to be able to demonstrate it has met its objective of better value for the taxpayer".¹¹



Family problems are among the most common disputes needing legal help. LASPO removed most private family law matters from the scope of legal aid.
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According to The Low Commission (2014), "the cuts in the scope of legal aid... have hit people who need help hard, as well as the advice and legal support bodies who provide much of that help".¹² The report acknowledges that where legal support is not available, the number of people who try to represent themselves will increase, with courts and tribunals having to adapt to deal with unadvised litigants. Furthermore, it states that when systems that are supposed to support people fail to function effectively, individuals require extensive help, often specialist and legal skills, to have their needs met – and these "are the consequences, intended or unintended, of the government's civil legal aid changes in the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012".¹³

In 2015, the Public Accounts Committee¹⁴ made recommendations relating to implementing reforms to civil legal aid, including:

- » Where policy intent is clear, the Ministry of Justice should gather the necessary evidence proactively so that decisions are taken on that basis.
- » The Legal Aid Agency should establish a robust mechanism to identify and address any shortfalls in provision, so it can be confident those still eligible are able to access legal aid.

» CUTS IN THE SCOPE OF LEGAL AID... HAVE HIT PEOPLE WHO NEED HELP HARD, AS WELL AS THE ADVICE AND LEGAL SUPPORT BODIES WHO PROVIDE MUCH OF THAT HELP.«

- » The Ministry should routinely collect reliable data on the operations of the court service, for example on hearing length, use of other court resources, types of case, and representation, and use this to better understand and manage the impact of litigants in person (LiPs).
- » The Ministry should identify the wider costs to the public sector as part of a full evaluation of the impact of the reforms.

The National Audit Office (NAO, 2014) report into implementing reforms to civil legal aid concluded that the Ministry of Justice does not know whether or not all those eligible for legal aid are able to access it, and recommended that it establish the extent to which those who are eligible are able to access it and what obstacles may exist.¹⁵

1.1 ACCESS TO JUSTICE

Concerns have been raised by, for example, Rights of Women and Women's Aid on the impacts of LASPO on women. Research by these organisations has shown that three years after the introduction of LASPO and the domestic violence evidence criteria "too many women affected by domestic violence continue to be denied access to legal advice and representation in family courts".¹⁶ Their survey found that 37 per cent of respondents who had experienced or were experiencing domestic violence did not have the prescribed forms of evidence to access family law legal aid, and 53 per cent of respondents took no action in relation to their family law problem as a result of not being able

to apply for legal aid. However, according to the United Nations Convention on the Elimination of All Forms of Discrimination against Women, "The right to access to justice for women is essential to the realisation of all the rights protected under the Convention on the Elimination of All Forms of Discrimination against Women. It is a fundamental element of the rule of law".¹⁷

The concluding observations of the UN Committee on the Elimination of All Forms of Discrimination against Women (2013), in relation to legal aid and access to justice state, "the Committee is concerned that the Legal Aid, Sentencing and Punishment of Offenders Act of 2012 unduly restricts women's access to legal aid because it removes access to legal aid for litigation concerning, among others, divorce, property disputes, housing and immigration matters... the Act conditions legal aid upon proof of, among others, abuse suffered by victims of violence".¹⁸

In February 2016, following a judicial review by Rights of Women, the Court of Appeal ruled that aspects of the regulations relating to the evidence test that victims of domestic violence have to meet in order to obtain legal aid for private family law cases were unlawful. Subsequently, the government introduced interim regulations which extended the time limit on the forms of evidence of domestic violence from two to five years; and the Legal Aid Agency has discretion to consider forms of evidence of financial abuse, with a checklist provided for guidance.^a The extent to which these changes improve women's access to justice will need to be evidenced. For some, the extension to five years does not go far enough. According to Simpson Millar Solicitors, "there will be many scenarios, in particular relating to children, where domestic abuse has occurred more than five years ago, but would still be material to the decisions a court would make in relation to the child. Here the court may not get the chance to make the decision if lack of legal aid prevents the case from coming to court. The result of this is that children may be seeing a parent in circumstances where it is not safe for them or the mother".¹⁹

a What counts as domestic abuse for legal aid: there needs to be evidence that a person or their child is at risk of harm from an ex-partner. Evidence now accepted is from: courts; the police; a multi-agency risk assessment conference (MARAC); social services; a health professional, e.g. a doctor, nurse, midwife, psychologist or health visitor; a refuge manager; a domestic violence support service; a bank, e.g. credit card accounts, loan documents and statements; an employer or education or training provider; the provider of any benefits received. www.gov.uk/legal-aid/domestic-abuse-or-violence

As well as the impacts of the government's reforms on people's fundamental human rights, evidence indicates a false economy in making cuts to legal aid. The Legal Action Group has estimated that £60m in expenditure in legal aid saves the state over £300m in expenditure on other services.²⁰ Furthermore, it is estimated that for every £1 spent on debt advice the state potentially saves £2.98, and for every £1 spent on employment advice, the state potentially saves £7.13, for example.²¹

The NAO (2014) also estimated that across all family court cases there had been a 30 per cent year on year rise in the number of cases in which neither party had legal representation, with a possible cost to HMCTS of £3m per year and direct cost to the Ministry of Justice of £400,000.²² The NAO recommended that the Ministry of Justice develops measures to evaluate the impact of the reforms more fully, including estimating any wider costs to the courts system, e.g. through collating data on court case duration. However, there could also be more personal costs for LiPs. In 2014, the Master of the Rolls, Lord Dyson, told the House of Commons Justice Committee: "it would be extraordinary if there had not been some cases which were decided adversely that would have been decided the other way had the litigant been represented by a competent lawyer".²³

The Ministry of Justice commissioned Litigants in Person in Private Family Law Cases (published in 2014), which identified best practice for meeting the needs of LiPs.²⁴ These included that relevant family justice communications are re-evaluated from the perspective of LiPs and (if necessary) redesigned with their needs in mind; that court services provide increased opportunity for face-to-face inquiries with relevant court staff; and that guidelines and training for court staff are devised to facilitate information-giving while avoiding giving advice. However, the terms of the research did not include analysing the cost-benefit of the proposals.

Concerns continue to be raised about more 'advice deserts' materialising in the sectors that remain within the scope of legal aid. According to the Law Society (2016), several parts of England and Wales now have inadequate housing cover, and in some areas reliance on sole providers has already created conflicts of interest.²⁵ A survey by Women's Aid, Rights of Women and Welsh Women's Aid also found that 71 per cent of

respondents said it was difficult (37 per cent) or very difficult (35 per cent) to find a legal aid solicitor in their area.²⁶

1.2 COURT REFORMS

In addition to introducing LASPO, the government undertook reforms to court services which included a programme of court closures. In the last parliament, 142 courts were closed, and the government announced this year its intention to close another 86 courts. The government contends in its *Proposal on the provision of court and tribunal estate in England and Wales* (2015) that it can "only provide better access to justice if we take difficult decisions to reduce the cost of our estate and reinvest the savings" and this means "a significant number of additional courts will have to close".²⁷ The government plans to invest £700m over the next four years to update the courts and tribunals estate by "installing modern IT systems and making the justice system more efficient and effective for modern users".²⁸ However, there has been no assessment of the impacts on access to justice of the previous round of court closures, even though further closures are now taking place, and no indication that this technology would be piloted before courts are closed. Recently the government announced a £1bn programme to extend online courts to criminal offences.²⁹

During a parliamentary debate on the current round of court closures (March 2016), some MPs referred to the consultation process as "flawed".³⁰ The proposal stated, for example, that over 95 per cent of citizens would be able to reach their required court within an hour by car,³¹ but these travel estimates were contested by a number of MPs, who also stressed that people with caring responsibilities or disabilities would face additional challenges to getting to a court further from their local area. The government was also accused in the debate of moving court cases to skew the figures to indicate underuse, in order to justify closing some courts. Some MPs also stressed flaws in the decision. For example, Madeleine Moon, MP for Bridgend, highlighted that hundreds of thousands of pounds had been invested in repairs, modernisation and renovation for the magistrates and law courts, housing state-of-the-art court facilities, but the magistrates court was earmarked for closure.³² Bridgend magistrates court closed in July 2016.

Table 1: Changes in total Resource DEL spending from 2010–11 to 2015–16³⁵

	2010–11	2015–16	Change in £	Change in %
Ministry of Justice	£9bn	£7.2bn	–£1.8bn	–20
HMCTS	£990m	£833m	–£157m	–16
CPS	£616m	£487m	–£129m	–21

Table 2: Staffing cuts at HMCTS and the CPS from 2010–11 to 2015–16³⁶

	2010–11	2015–16	Change in nos	Change in %
HMCTS	20,778 ^b	16,287	4,491	22
CPS	7,746 ^c	5,793 ^d	1,953	25

Although the government has talked about the court closures in relation to creating a more efficient system, a parliamentary question by Andy Slaughter MP in December 2015 showed that 15 court buildings, which had been closed but not disposed of since May 2010, were costing £40,000 a month to secure and maintain, though they were empty and had been mothballed.³³

There have been significant cuts to the Ministry of Justice’s budget and to staffing across the justice sector. For the purposes of this report, the focus will be HMCTS and the CPS. The political choice of austerity has resulted in the Ministry of Justice budget being cut by 20 per cent between 2010–11 and 2015–16. This has impacted on HMCTS and the CPS, among other services, which have seen their budgets reduced by 16 per cent and 21 per cent respectively. These cuts have led to job losses, with staffing reduced by 22 per cent at HMCTS and 25 per cent at the CPS. Despite the pressure of these cuts on the justice system, which is illustrated by the findings of this research, more cuts are on the horizon, with expenditure expected to fall by £900m between 2016–17 and 2019–20.³⁴

1.3. EMPLOYMENT TRIBUNAL FEES

This research does not cover the impacts of the introduction of employment tribunal fees in 2013 and the removal of employment cases from the scope of legal aid unless in the case of discrimination. However, this matter still relates to access to justice, and research by the TUC (2014) showed that following the introduction of tribunal fees there was a 79 per cent fall in overall claims taken to employment tribunals, with women and low-paid workers the worst affected.³⁷ For example, there was an 80 per cent drop in the number of women pursuing sex discrimination claims and, during the first three months of 2014, the number of race discrimination and sexual orientation claims both fell by 60 per cent compared to the same period in 2013. Since their introduction, tribunal fees have been the subject of repeated judicial review proceedings both in England and Wales, and in Scotland, but to date these challenges have been unsuccessful. The government was due to publish a review into the impact of the implementation of tribunal fees at the end of 2015, but this has been delayed.^e

b Total for Her Majesty’s Court Services and Tribunals Services

c Overall full-time equivalent figures

d Full-time equivalent figures, permanent staff and others

e Courts and Tribunal Fees, House of Commons Justice Select Committee, Second Report of Session 2016–17, June 2016

2. METHOD

This research aims to add to the existing body of evidence which has looked at the impacts of the government's reforms to legal aid and court services and budget cuts in these areas – on access to justice.

In order to achieve this we undertook the following:

- » a survey of staff working in the justice sector, particularly courts, legal advice and representation, and probation
- » interviews with representatives from organisations/coalitions who have expertise in the justice sector and who work with people accessing justice services
- » submission of Freedom of Information requests to the Ministry of Justice
- » analysis of statistics produced by the Legal Aid Agency (for England and Wales, January-March 2016).

2.1 STAFF SURVEY

A survey of staff who work in the justice sector, particularly those whose work relates to courts and legal aid, was undertaken from February to April 2016. The survey was circulated by the FDA, Napo, PCS and Unite to their members.

2.2 INTERVIEWS WITH EXPERTS IN THE JUSTICE SECTOR

Interviews were carried out with representatives from the Howard League for Penal Reform, Islington Law Centre, the Justice Alliance, the Law Society, Rights of Women, Simpson Millar LLP Solicitors and Women's Aid. Interviews took place during March and April 2016, and questions were tailored to the specific work of the organisations/coalitions. Questions covered areas such as the impacts of the government's reforms and budget cuts on access to justice and service delivery; court closures and reforms; increases in LiPs; and changes to procurement of legal aid contracts. These organisations/coalitions were chosen because of their extensive knowledge, skills and expertise relating to the justice sector, and also for their first-hand

experience of working with people who use or come into contact with the justice system.

2.3 FREEDOM OF INFORMATION REQUESTS

Freedom of Information requests were made to the Ministry of Justice in relation to the following areas:

1. The additional costs to the Ministry of Justice and the wider public sector that may have been created as a result of the reduction in government spending on civil and criminal legal aid between April 2014 and February 2016. This might include costs to the Ministry of Justice as a result of the increase in the number of people representing themselves in court, and wider costs to the government that could arise from individuals unable to access support to resolve civil or criminal legal matters, including impacts on health and well-being.

We asked for monitoring and evaluation documentation related to the above. In addition, we requested that, if a decision had been taken not to monitor and evaluate the additional costs of the legal aid reforms to the Ministry of Justice and wider government, we be supplied with documentation relating to how and why this decision was made, and documentation relating to how the Ministry of Justice was measuring the efficiencies expected in the absence of this information.

2. The number of cases relating to domestic violence that involved LiPs during the periods 1 January–31 December 2011 and 1 January–31 December 2015.
3. In addition, we requested to know the number of applications for legal aid made by victims of domestic abuse, and the number of these individuals who were refused legal aid during the following periods: 1 January–31 December 2011 and 1 January–31 December 2015.

2.4 ANALYSIS OF LEGAL AID STATISTICS

This analysis focused on Legal Aid Statistics in England and Wales, January-March 2016, produced by the Legal Aid Agency.

3. FINDINGS

This section sets out the findings of our research and is divided into four sections:

- » results of the staff survey
- » key messages from experts working in the justice sector
- » Freedom of Information requests
- » analysis of legal aid statistics for England and Wales (January-March 2016).

Within each section, the findings will also be analysed in relation to some of the existing evidence in this field.

3.1 RESULTS OF THE STAFF SURVEY

3.1.1 Background and demographic information

A total of 141 members of staff who work in the justice sector responded to the survey. Staff had between one and forty-one years of service working in this sector (information provided by 104 respondents), totalling 1,742 years of collective experience. The average length of service was 16.75 years.

Staff responded that they work in the following justice services: Citizens Advice campaigns team, law centre, legal aid, National Offender Management Service (NOMS), Ministry of Justice, Crown Prosecution Service, HMCTS including county courts business centre, HM Prison Service, magistrates court, Immigration and Asylum Tribunal, crown court, family court, criminal court, county court, Children and Family Court Advisory and Support Service (CAFCASS), Office of the Public Guardian, probation and youth justice.

The job roles of respondents were varied and covered: debt programme coordinator, advice supervisor, senior campaigns officer, centre director, solicitor, team leader, senior crown prosecutor, paralegal officer, associate prosecutor, legal adviser, court usher, administrator, administrative assistant, audio typist, court clerk, administrative officer, family court adviser, performance analysis and reporting

manager, administration manager, court security officer, senior enforcement manager, delivery manager, contact centre agent, caseworker, enforcement officer, social worker, case administrator, business support officer, list caller and divorce clerk.

Of the 104 respondents that provided information about their sex, 66 identified as women, and 38 as men.

The numbers of respondents to each survey question varied as some questions were more applicable than others, depending on the person's job.

3.1.2 Gendered impacts of the legal aid reforms on access to justice

With regards to the gendered impacts of the government's reforms to legal aid, a number of respondents felt that women were more actually or potentially adversely affected. Their reasons included: women tend to make more civil legal applications, are more often low-paid, part-time workers with caring responsibilities and are therefore more likely to be dependent on accessing legal aid. Some staff stated that men are more likely to be higher earners and therefore more able to hire a solicitor or barrister, giving them greater access to justice.

Respondents referred to women who had experienced domestic violence, stating that the higher evidence criteria had left women at risk, domestic violence orders were now harder to obtain due to evidence requirements, and some women are put off going to court because they do not qualify for legal aid. Women being questioned in court by the alleged perpetrator of the domestic abuse was another reason given for women being adversely affected. Employment tribunal cases taken by women were also noted to have dropped since the reforms.

A minority of respondents felt that men are/ can be more adversely affected by the legal aid reforms because they are less likely to qualify for legal aid now. In private family law men may also be marginalised, affecting contact with their children.

» I THINK WOMEN HAVE BEEN AFFECTED EVEN MORE THAN MEN, AS THEY ARE MORE LIKELY TO BE IN LOW-PAID, PART-TIME WORK, AND TO BE CARERS. THIS MEANS THAT THEY MAY MORE OFTEN EXPERIENCE LEGAL ISSUES AND YET HAVE LITTLE OPPORTUNITY TO GET JUSTICE.«

A small number of respondents highlighted that both men and women in lower-paid jobs with caring responsibilities were being adversely affected by the changes. Some men, they stated, may not apply for legal aid in the early stages, but after they have not seen their children for some time, while women are being put off from applying for orders to ensure safety if there is no proof of police involvement.

"I think women have been affected even more than men, as they are more likely to be in low-paid, part-time work, and to be carers. This means that they may more often experience legal issues and yet have little opportunity to get justice. For example, there is significant evidence that women who are pregnant have lost their job unlawfully. The very high evidence [criteria] for domestic violence in order to secure legal aid has also left many women at risk from partners or former partners."

LAW CENTRE EMPLOYEE

"For victims of domestic violence there is the whole trauma of being cross-examined by the perpetrator. Women are more likely to be victims, so are more likely to be in this situation. On the other hand, men who are accused of domestic violence may be at a disadvantage if women have legal aid and they do not."

FAMILY COURT ADVISER, CAFCASS

3.1.3 Impacts on access to justice and justice services

The effects of the government's reforms to legal aid on justice services and on access to justice have been detrimental, according to four in five staff responding to the survey.^f The majority of staff were unequivocal in their criticisms of the reforms, and particularly on the impact on access to justice.

"It claims to be access to justice but [the] reality is that the law is becoming a two-tier system – those who can pay and those who cannot afford [it]". HMCTS EMPLOYEE

"I feel it has a huge impact on those who require justice through the legal system but cannot afford the process. So they are suffering in silence." CASE ADMINISTRATOR, PRISON SERVICE

"The demand for legal aid services is overwhelming and there is a huge gap in services." LEGAL AID SOLICITOR

"In family [courts] I believe it's detrimental to children". DELIVERY MANAGER, HMCTS

Only a small minority of respondents (2 per cent) felt that the reforms had been positive in some way, e.g. "It's saved valuable money", while a large proportion of remaining respondents (11 per cent) offered more observational comments, e.g. "The cuts have had a dramatic effect on areas of social welfare law which have been taken out of the scope for legal aid such as... large sections of welfare benefits and housing".

3.1.4 Impacts on workload

Over half of the respondents (57) to this question^g stated that their workloads have increased since 2010. In many cases this was attributed to cuts to staffing combined with an increase in the volume of work in their areas. Only a minority (8 respondents) stated that their workloads have remained the same/similar or reduced. The remaining respondents (48) noted that their work/the work of others has changed in some way, often not for the better, and/or they expressed feelings about workload or working practices.

^f Total of 127 responses

^g Total of 116 responses provided; 113 actual answers provided on workload changes, and this was used for the basis of the calculations

» I FEEL IT HAS A HUGE IMPACT ON THOSE WHO REQUIRE JUSTICE THROUGH THE LEGAL SYSTEM BUT CANNOT AFFORD THE PROCESS. SO THEY ARE SUFFERING IN SILENCE.«

"We are under pressure to work faster, to be cautious about committing CAFCASS or the Courts to more involvement, and the level of evidence required when arguing for this means that, in my view, children are being put at risk of suffering significant emotional abuse to fit a government agenda. Job satisfaction has declined massively." **FAMILY COURT ADVISER**

"I think [the] workload is impossible to get through, targets cannot be hit because of lack of resource to do the work. Too much pressure is being put upon too many people because we don't have enough staff and when people leave because they feel like a battery hen they don't get replaced." **ADMINISTRATION OFFICER**

"There has been a significant increase in my working hours and I am struggling on every case to fulfil both my statutory professional duties and to do justice to each and every case."

ASSOCIATE PROSECUTOR

"Workload has changed, staff have been reduced, expectations [of] what can be achieved is ridiculous. Staff are stressed, morale is at a real low... The PMR [performance management review] system additionally puts stress on people. The workers get little to no support, the whole system has become a joke."

ADMINISTRATION OFFICER

3.1.5 Changes to staffing in the last two to three years and impacts on workload

More than half (57 per cent) of the respondents to this question^h stated that staff numbers have been reduced, particularly in HMCTS and the Ministry of Justice. In most cases, respondents



Budget cuts are putting court services and staff under greater pressure.
© iD8 Photography/John Birdsall

stated that staff are not being replaced when they leave, retire or go on maternity leave. Reductions in administrative staff were highlighted as having knock-on effects on other staff being able to do their jobs effectively. The impacts of the cuts or changes to staffing mentioned by respondents included:

- » loss of experienced and permanent staff, and an increase in the use of agency and temporary workers or staff on a fixed-term contract
- » increased workloads or caseloads for remaining staff
- » increase in errors with quality of work affected
- » increased stress, pressure and unpaid work;
- » more resources and time required to train agency or temporary workers who leave and are replaced by more agency/temporary workers
- » agency/temporary workers not always being given the training they need
- » remaining staff having to take on extra responsibilities due to staff reductions, but with no additional remuneration.

^h Total of 120 responses

» CHILDREN ARE BEING FORGOTTEN. CONTACT APPLICATIONS FROM THE ABSENT PARENT ARE MORE DIFFICULT AND TAKE LONGER WITHOUT THE EXPERTISE OF A SOLICITOR. ABSENT PARENTS ARE GIVING UP WITHOUT TRYING AND THE CHILD WILL OFTEN BE THE ONE WHO LOSES OUT.«

"There is a higher turnover of back-office staff with only fixed-term and agency staff being appointed, so time goes into training only for them to leave for a permanent position elsewhere." **COURT USHER**

"A focus away from the law and delivering justice, to implementing business objectives and efficiency savings." **LEGAL ADVISER**

"Staff numbers have been reduced, this has meant more work with a lot more pressure to complete the work and I think the quality of the work has gone down."

"There seems less and less back-office support, clerks and ushers are having to constantly work around inefficiencies." **COURT CLERK**

3.1.6 Impacts of the increase in LiPs in family and civil courts

According to 87 per cent of respondentsⁱ the increase in LiPs has had a detrimental impact on the ability of family and civil courts to deliver justice fairly, effectively and efficiently. Staff cited that the increase in LiPs has meant that hearings are taking longer, there are increased delays, and lists and waiting times are also now longer. Court processes have been slowed, making the system more inefficient. LiPs are perceived as being at a disadvantage by staff, as they often do not know the law, the system or how to conduct a case, and if people are unable to get the help they need, this in turn is viewed as impacting on the effective delivery of justice.

Responses from remaining respondents were mixed with comments relating to, for example, lawyers having to take on a greater role, more cuts, more work and less pay, and access to legal aid being reduced due to misuse.

"Although all sides try to assist where appropriate... it's not a level playing field and never can be. I've had a judge say to me, if only he'd brought up this point the decision could have been different!" **COURT USHER**

"Hearings are taking significantly longer because of the increase in litigants in person. It is very difficult to ascertain through the emotions of the parties what the real issues are for the court to determine. It is leading to great unfairness and imbalance and is certainly not efficient." **LEGAL ADVISER**

"Children are being forgotten. Contact applications from the absent parent are more difficult and take longer without the expertise of a solicitor. Absent parents are giving up without trying and the child will often be the one who loses out."

3.1.7 Duration of cases

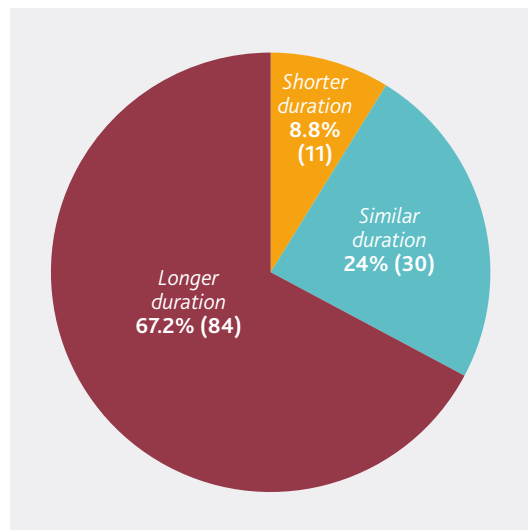
Respondents were asked their views about changes, if any, to the duration of cases since LASPO came into effect in April 2013. Out of 125 respondents (see Figure 1 on page 18), just over two-thirds (67 per cent) agreed that cases are taking longer. About a quarter (24 per cent) felt that cases were taking a similar duration, and a minority stated that cases were shorter since the reforms had been introduced.

ⁱ A total of 115 respondents including don't knows/not covered by respondent's area of work. 85 actual answers provided and used as the basis for calculations



» UNFAMILIAR DEFENDANTS WITH THE SYSTEM AND NO HELP IS AVAILABLE. WHERE FRONT OF COUNTER USED TO HELP, THIS IS NOW TOTALLY CLOSED.«

Figure 1: Respondents' views on the duration of cases, post-LASPO



A number of respondents (111) provided further information to explain their views. Comments from those staff saying that cases are taking longer included:

"Court services are grinding to a halt, the delays are terrible and prevent vulnerable people enforcing their rights." **LAW CENTRE EMPLOYEE**

"Everything has to be explained much more fully so the unrepresented party can follow what's going on, the judge has to take much more time making sure they can follow the case. This all means that the courts sit for longer as listing doesn't take the increase in hearing times into account, this puts extra strain on court staff."

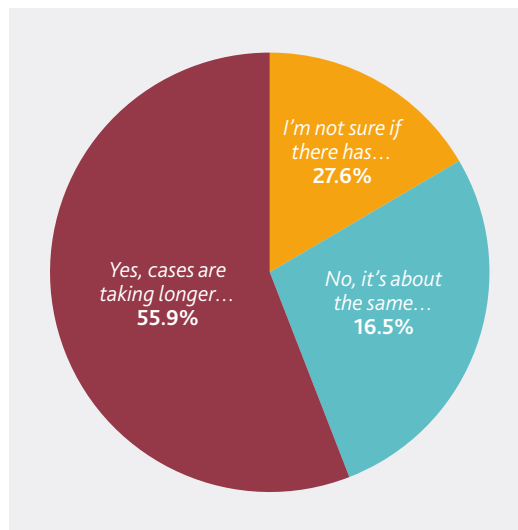
COURT USHER

Cases could be shorter, according to a minority of respondents, because, for example, there are fewer contested cases as fewer people are able to afford representation. Alternatively, reasons for cases taking a similar duration included robust case management:

"Due to the proactive and robust case management of cases, there seems to be little change to the length of time a trial can take to be listed".

LEGAL ADVISER

Figure 2: Respondents' views on how long cases are taking to be listed and concluded



3.1.8 Listing and conclusion of cases

In relation to the government's so-called efficiency savings, staff were asked if cases are taking longer to list and conclude or not. Out of 127 responses (see Figure 2), the majority (56 per cent) agreed that cases are taking longer to list and conclude since the reforms to legal aid came into effect in April 2013. About a quarter (28 per cent) stated that they were not sure if there have been any changes, and a minority (17 per cent) said that cases are taking about the same time to be listed or concluded. For those who provided comments on cases taking longer to be listed or concluded, the impacts of LiPs were frequently mentioned.

A total of 88 respondents provided additional information about the listing and conclusion of cases. Feedback from respondents selecting a longer duration for this included:

"Unfamiliar defendants with the system and no help is available. Where front counter used to help, that is now totally closed."

LEGAL ADVISER, MAGISTRATES COURT

"There seems to be much less funding for social services, CAFCASS and other outside agencies so reports are taking longer and delaying cases."

"The cuts in the court service administration means less staff and more work. Staff have to answer litigants in persons' questions whereas before a solicitor or a barrister would have fielded such questions. Thus cases take longer as there are less staff to list cases."

3.1.9 Court closures

The negative impacts of the previous round of court closures on access to justice, the effective delivery of justice, and on court users and staff was highlighted by 71 per cent of respondents.^j Reasons given for the perceived negative impact of the closures included:

- » fewer court rooms and therefore less capacity leading to delays and backlogs
- » centralisation of services combined with staffing cuts negatively impacting on 'customer care' with court users being less able to get help when they need it
- » more cases being handled by already stretched courts
- » staff cuts resulting in reduced court sittings, creating further backlogs
- » justice not being seen to be done locally
- » increased travel times for court users and staff, making justice services less accessible and inhibiting attendance at court.

More than a quarter of these respondents (26 per cent) highlighted longer and costlier travel for court users in relation to the negative impacts of the court closures, with this posing additional challenges for people with dependants, mobility issues, low incomes or for those living in more rural areas.

"It means that justice is not seen to be done in the local community. Parties to court cases sometimes have to travel miles from where they live to an unfamiliar court centre if their local magistrates or crown court has closed."

DELIVERY MANAGER

» STAFF HAVE TO ANSWER LITIGANTS IN PERSONS' QUESTIONS WHEREAS BEFORE A SOLICITOR OR A BARRISTER WOULD HAVE FIELDDED SUCH QUESTIONS. THUS CASES TAKE LONGER AS THERE ARE LESS STAFF TO LIST CASES.«

"Reluctance of witnesses to give evidence in a strange place far away has increased."

SENIOR CAMPAIGNS OFFICER, CITIZENS ADVICE CAMPAIGNS TEAM

"Parents have to travel much further for court hearings, which causes particular problems in rural areas where there is often very little public transport." **SOCIAL WORKER**

"More cases have to be handled by already stretched remaining courts, defendants and claimants have further to travel – not easy if they have mobility/health/financial issues."

ADMINISTRATION OFFICER

A minority of respondents stated that it was too early to tell with regards to the impacts of the previous round of closures. Fourteen per cent felt that the court closures had had no impact in their experience, but remaining respondents stated that although no impacts had been felt as yet, they expected to in the future or after the next round of closures.

3.1.10 Impacts of government cuts to the Crown Prosecution Service

Overall, the impacts of the budget cuts on courts and the CPS, which include office/court closures and staffing cuts, were viewed by the majority of respondents (90 per cent)^k as being detrimental to the effective delivery of justice and this in turn was seen as diminishing access to justice. Of the remaining respondents, some offered

j A total of 115 respondents including don't knows/not covered by respondent's area of work. 85 actual answers provided and used as the basis for calculations

k 110 respondents including don't knows/not respondent's area of work/referred to a previous answer; 97 actual answers provided and used as the basis for calculations.

observational comments, e.g. the increase in LiPs, and only a tiny minority (three per cent) stated that the cuts to the CPS had had a positive impact on access to justice.

"Increased workloads cause more errors (some serious!)." **ADVICE SUPERVISOR**

"There has been a significant impact on the CPS, with the reductions in budget endured by the CPS. Less staff, an increased workload, at a significant time of change to digital working. The pressures on staff have become significant. The ability of the CPS to comply with its statutory duty is being severely tested and public safety is being put at risk." **ASSOCIATE PROSECUTOR**

"Both courts and CPS are just keeping their head above water, too few staff to make the system work efficiently, poor introduction of computerised systems that essentially make more work and do not have time savings attached." **COURT USHER**

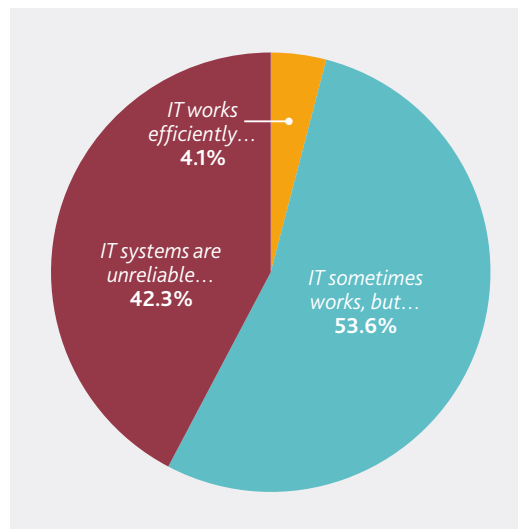
"Staff feel very undervalued. No pay rises, more work, it's not a nice place to work for." **ADMINISTRATION ASSISTANT**

3.1.11 Experience of using IT in courts

Respondents were asked about their experiences of using IT in courts, and only a small minority (four per cent) selected 'IT works efficiently and is helpful in delivering cases efficiently'.¹ The majority of respondents (54 per cent) agreed with the statement 'IT sometimes works, but systems need improvement'. However, over a third (34 per cent) agreed that 'IT systems are unreliable, which causes problems when cases are being heard'.

Additional comments on the IT systems in courts were provided by 101 respondents and common themes emerged relating to systems being: ancient, outdated, slow, incompatible, unreliable, needing more investment, and staff needing more training. Staff also commented:

Figure 3: Respondents' views of using IT in courts



"Systems often fail and suffer from incompatibility. Court staff spend a significant amount of time trying to find a 'work around'. Cases are adjourned or dropped because of IT failures."

"Most of the systems such as 'Clickshare' fail frequently and calling out engineers to fix them is expensive and time-consuming. Wifi should be available to all but at our court it hasn't worked properly since it was installed last year. All court systems are pretty poor; our admin systems Libra and Court Store crash all the time." **USHER/LIST CALLER**

"As a former computer development project manager I am qualified to say that the computing infrastructure and applications are a total disgrace. No commercial company would put up with such rubbish. It needs a ground-up overhaul, but the £700m budget won't go anywhere towards what is needed." **COURT CLERK**

"Now that the court service has finally adopted business Wi-Fi, the IT systems are starting to deliver efficiencies for CPS in relation to access to information. However, digital case management and prosecuting cases digitally is far more cumbersome and time consuming. The Court Store system is similarly cumbersome and is creating far more delays in court, as updating the cases in court is now far slower than simply writing with pen and paper(!)" **ASSOCIATE PROSECUTOR**

¹ Total of 123 respondents

3.2 INTERVIEWS WITH EXPERTS IN THE JUSTICE SECTOR

Interviews were carried out with representatives from: the Howard League for Penal Reform, Islington Law Centre, the Justice Alliance, the Law Society, Rights of Women, Simpson Millar LLP Solicitors and Women's Aid.

3.2.1 Access to justice

The impacts of the government's legal aid reforms and budget cuts on access to justice were raised in interviews with some of the organisations, none of which stated that the impacts had been positive or improved access to justice.

According to the Justice Alliance:^m

"The government's reforms to legal aid have been devastating and denied access to justice to thousands of people, including some of the most vulnerable people in the civil area... The reforms mean that a free reign has been handed to the worst bullies in society like the bullying employer, the bullying landlord, the bullying partner. In many cases people will be denied access to legal aid to challenge this behaviour."

MATT FOOT, CO-FOUNDER, JUSTICE ALLIANCE

The Law Society also expressed similar views when asked if the right to justice had been protected under the reforms to legal aid, stating:

"Changes to legal aid have been cuts-focused. People can obtain legal aid if lives, homes and liberty are at stake – there is now a much higher threshold for accessing legal aid. This means that there is limited means for people to enforce their rights. The rich and powerful can have less regard for people's rights in this context, and they are more able to trample on people's rights."

RICHARD MILLER, HEAD OF LEGAL AID, LAW SOCIETY

The Howard League for Penal Reform were keen to stress that having a constitutional right to access to justice was not enough because this needed to be something that people can actually realise, with there being serious possible consequences if this is not the case.

» CHANGES TO LEGAL AID
HAVE BEEN CUTS-FOCUSED.
PEOPLE CAN OBTAIN LEGAL
AID IF LIVES, HOMES AND
LIBERTY ARE AT STAKE...
THERE IS LIMITED MEANS
FOR PEOPLE TO ENFORCE
THEIR RIGHTS.«

"Legal aid makes rights real and is key to access to effective justice. Litigants in person are accessing justice, but are they doing so effectively? The answer has to be 'no' on the whole. This is damaging for the sector, damaging for the rule of law, and damaging for our society as a whole, because if people don't respect the rule of law – we are less likely to have a law-abiding society."

DR LAURA JAMES, LEGAL DIRECTOR, HOWARD LEAGUE FOR PENAL REFORM

The impacts of the government's reforms on women were also viewed as far from favourable by those working with vulnerable women on an everyday basis.

Women's Aid emphasised that legal aid is an essential tool for survivors of domestic violence and their children, with these people being some of the most vulnerable in society. They stressed that we need to break down the barriers to leaving abusive relationships and support women and families recovering from these experiences. In the view of Women's Aid:

"LASPO is dismantling pathways to justice for women and children and survivors of domestic violence – it is vital that they can access legal aid. Legal aid should be available for family proceedings and civil law, but this isn't always the case and there are unintended consequences... Legal aid is a lifeline for vulnerable women."

SIÂN HAWKINS, CAMPAIGNS AND PUBLIC AFFAIRS MANAGER, WOMEN'S AID

^m The Justice Alliance is an alliance of about 50 legal organisations, charities, community groups, grass roots and other campaigning groups, trade unions and individuals who are united in opposition to the government's proposed attack on legal aid and the criminal justice system



» WE ARE SEEING WOMEN AND CHILDREN HAVING UNSAFE CONTACT WITH PERPETRATORS OF DOMESTIC VIOLENCE. LEGAL AID CUTS MEAN THAT LACK OF ACCESS TO REPRESENTATION, AND THEREFORE THE ABILITY TO PROTECT THE CHILD, IS MORE LIMITED. «

Rights of Women also take the view that the government's reforms to legal aid have been "devastating to the women we work with", and state that the changes to family law legal aid and legal aid for immigration have left some women without specialist advice. Rights of Women have seen a marked increase in calls to their specialist immigration law helpline since LASPO came into effect. Women's safety and well-being is also viewed as being affected by the government's legal aid reforms:

"Changes have meant that women are now less able to sort out child arrangements, divorce proceedings, property arrangements – and this has an impact on their safety and health. A growing number of women in contact with us are reporting mental health problems."

EMMA SCOTT, FORMER DIRECTOR, RIGHTS OF WOMEN

Both Women's Aid and Rights of Women raised concerns about cases where female LiPs are faced with being cross-examined by their alleged abuser in the family courts system, which would not be allowed in a criminal court. Without the same protections in place, they contend that women's safety is being put at risk, and in addition, Women's Aid state that in these cases the "outcome may not be right or fair".

Research into evidencing domestic violence by Rights of Women, Women's Aid and Welsh Women's Aid three years after the introduction of LASPO found that 53 per cent of women took no action in relation to their family law problem as a result of not being able to apply for legal aid.³⁸ Rights of Women expressed concern about what this means for the safety and well-being of vulnerable women and children. Furthermore, compulsory mediation for all couples considering court proceedings could be putting vulnerable women at risk.

"The concern is that women therefore may be staying in abusive relationships or making decisions that are unsafe for them and their children... In addition, legal aid reforms push mediation, so some women are under pressure to agree to something without appropriate legal advice. In cases, women are engaging in a process that isn't fair or safe for them or their children."

EMMA SCOTT, FORMER DIRECTOR, RIGHTS OF WOMEN

Similar concerns about the safety and well-being of vulnerable women and children were expressed by other interviewees.

"Due to the reforms to legal aid, there is a generation of children without appropriate arrangements in place to enable them to have a positive relationship with their parents."

EMMA PEARMAINE, DIRECTOR OF FAMILY SERVICES, SIMPSON MILLAR SOLICITORS

"We are seeing women and children having unsafe contact with perpetrators of domestic violence. Legal aid cuts mean that lack of access to representation, and therefore the ability to protect the child, is more limited."

SIÂN HAWKINS, CAMPAIGNS AND PUBLIC AFFAIRS MANAGER, WOMEN'S AID

Following Rights of Women's successful judicial review relating to aspects of the evidence criteria for domestic violence, they, along with others including Women's Aid and the Law Society, have engaged with government on changes to the regulations. However, Rights of Women take the view that while the case was a significant victory, some women still cannot evidence the abuse they experience and many cannot afford to pay for the evidence, such as £70 for a doctor's letter, which means there remain financial barriers to accessing legal aid. Women's Aid have argued that other criteria, for example calls to domestic violence hotlines and contact with women's specialist organisations, should also be recognised as evidence.

In March, the government launched its Ending Violence Against Women and Girls Strategy 2016–20. Women's Aid was asked about this in relation to the government's legal aid reforms:

"There needs to be joined up thinking, for example, access to legal aid is vital to keeping survivors of domestic violence safe. Access to legal aid has to be front and centre of any strategy to tackle violence against women and girls. Delivering the strategy effectively won't be possible if legal aid isn't available to those that need it."

SIÂN HAWKINS, CAMPAIGNS AND PUBLIC AFFAIRS MANAGER, WOMEN'S AID

Cuts to prison law legal aid have also had a detrimental affect on access to justice. According to the Howard League for Penal Reform, cuts to prison law legal aid were so immense that they have put almost all day-to-day issues out of reach of remedy, and prison lawyers have less contact with prisoners now. However, the former Secretary of State for Justice, Michael Gove, stated that he wanted "to make our prisons places of rehabilitation which give those who have made wrong choices opportunities for redemption". The Howard League point out the contradictions in government policies and stated objectives – and the possible consequences.

"The financial savings from reforms to prison legal aid are tiny. But the human and social cost is huge and out of kilter with the rest of the government's policy. If prisoners can't access prison law legal aid, they are less likely to have respect for prison rules and regulations."

DR LAURA JAMES, LEGAL DIRECTOR, HOWARD LEAGUE FOR PENAL REFORM

The cuts to the legal aid budget which partly related to changes to the scope of legal aid, combined with cuts to local government funding, have inevitably affected services providing advice and representation in the justice sector. Interviewees were asked their views on the impacts.

For Islington Law Centre (like many other law centres), LASPO reforms have meant that the bulk of services previously funded under legal aid now no longer have public funding from central government. The impact of this has been significant 'cost-shifting' whereby local authority funding, which has also been cut, and funding from charitable trusts now has to be used to meet the needs of most clients, including those who are destitute, rather than those who do not

qualify for legal aid, as in the past. In addition, reductions in the number of legal aid contracts issued and changes to how these are structured have had a negative impact, resulting in the law centre no longer being able to generate sufficient income to cover the costs of some posts and therefore take on more cases. Consequently, Islington Law Centre is not able to offer the same level of help as it was pre-LASPO and assists fewer people, but there is still high demand for their services.

"We are not able to offer the same level of help, we have fewer advisers now and we have a large waiting list as demand is very high. It is heart-breaking as people have nowhere else to go. If we can't take them on, we know they won't get the help they should have."

RUTH HAYES, ISLINGTON LAW CENTRE

The impacts of the reforms are also felt in the wider network with which Islington Law Centre works. The reduction in the number of firms undertaking legal aid work has made it difficult for the law centre to find other legal professionals to take on clients' work when they do not have capacity. The law centre provides pro-bono outreach sessions to a local night shelter and delivers outreach in a range of community settings, but now struggles to take on cases for all service users who need help. Consequently, vulnerable people's problems become more intractable, and local agencies, which may have had their funding cut, are placed under even more pressure.

Simpson Millar Solicitors have an 'access to justice' scheme where they offer legal advice at reduced rates. However, they state that demand is such that each year they are having to turn away, on average, 600 vulnerable people who need legal advice.

These insights from professionals in the justice system therefore raise questions about whether some people are actually able to get the legal advice and representation they need, or if they are falling through the cracks and "suffering in silence", as stated by one survey respondent.

Women's Aid are among those organisations that provide specialist domestic violence services. In their view, cuts to advice and support services for women has meant that ways to find out information are increasingly limited and that as a result help is being cut off.

» WE ARE NOT ABLE TO OFFER THE SAME LEVEL OF HELP, WE HAVE FEWER ADVISERS NOW AND WE HAVE A LARGE WAITING LIST AS DEMAND IS VERY HIGH. IT IS HEART-BREAKING AS PEOPLE HAVE NOWHERE ELSE TO GO.«

"Cuts lead to additional barriers to accessing the help and support vulnerable women need."

SIÂN HAWKINS, CAMPAIGNS AND PUBLIC AFFAIRS MANAGER, WOMEN'S AID

For young people in prisons or young offender institutions, cuts to prison law legal aid was followed by a 40 per cent increase in calls to the Howard League's helpline for under 21-year-olds, in 2014. Cuts to prison service budgets have had a detrimental impact on prisoners' safety and well-being. There is pressure on staff dealing with the fall-out of the reforms, and increasingly work done by the organisation's staff is unpaid.

"The climate is dire – prisoners are suffering from terrible resource cuts in prisons. [Howard League] staff are dealing with increasingly desperate people – some are suicidal, some call while self-harming. The work is increasingly stressful, not only for lawyers but also prison and probation officers. Prisoners also find it harder to get help from probation officers since the split into the National Probation Service and Community Rehabilitation Companies."

DR LAURA JAMES, LEGAL DIRECTOR, HOWARD LEAGUE FOR PENAL REFORM

3.2.2 Court closures and reforms

Interviewees were asked for their views about court reforms and court closures and the impacts on access to justice. Interviewees expressed concerns about these areas.

"The closures will have an enormous impact on justice around the country. Witness evidence may provide a different perspective [from] the prosecution's case, but they may not be able to get to a local court now. Some witnesses would need to be willing to travel and give their time to get to a court much further away, and they

may have caring commitments that prevent them from doing this. The government has not considered the impacts on justice, the plans could lead to miscarriages of justice. We need these local services." MATT FOOT, CO-FOUNDER, JUSTICE ALLIANCE

"County court counters already have reduced opening times due to staffing cuts and reduced court resources, and with further court closures people will have to travel even further to get to one. This advice and support is therefore more out of reach."

EMMA PEARMAINE, DIRECTOR OF FAMILY SERVICES, SIMPSON MILLAR SOLICITORS

With regards to their campaign to end the criminal courts charge introduced by the government, Howard League stated:

"The charge was criminalising poverty and people who couldn't afford to pay. The trajectory led to people at risk of prison if they couldn't pay and this wasn't proportionate to the harm caused."

DR LAURA JAMES, LEGAL DIRECTOR, HOWARD LEAGUE FOR PENAL REFORM

3.2.3 Litigants in person

The impacts of the increase in LiPs on court proceedings and on litigants themselves was discussed with some interviewees, who highlighted the negative consequences. According to Simpson Millar Solicitors:

"Cases take longer to be heard. There are longer delays as courts are bottle-necked with litigants in person. This has cost implications in terms of achieving efficiencies. But the prospect of being a litigant in person could result in some people failing to pursue access to justice, or they may pursue it in a manner that isn't conducive to swift settlement. Litigants in person also raise safety issues for staff, and this has been raised by judges and lawyers."

EMMA PEARMAINE, DIRECTOR OF FAMILY SERVICES, SIMPSON MILLAR SOLICITORS

» THINGS ARE SO BAD, FOR EXAMPLE, FOR FAMILY, IMMIGRATION AND HOUSING IT'S DIFFICULT TO GET ANY ADVICE AT ALL. THINGS ARE STARTING TO MOVE THAT WAY FOR CRIMINAL LEGAL AID.«

3.2.4 Changes to legal aid contracts

Interviewees with specialist knowledge were asked about the impacts of the government's reforms to legal aid contracts on access to justice and on the profession.

There have been campaigning victories and a government U-turn on further cuts to legal aid fees, but existing cuts are posing a range of challenges. According to the Justice Alliance:

"Stopping plans to get rid of high street legal aid firms for criminal defence is a victory. But there are still funding shortages which are leading to a decline in standards and could lead to miscarriages of justice. We've managed to stop the worst excesses – specialist legal services are safer, for now". **MATT FOOT, CO-FOUNDER, JUSTICE ALLIANCE**

However, the Alliance emphasised that the cut in fees paid to providers (combined with the reduction in scope for legal aid) will inevitably have an effect on the services provided. The fees, set by government, have not increased since 1997. The Justice Alliance added:

"Things are so bad, for example, for family, immigration and housing it's difficult to get any advice at all. Things are starting to move that way for criminal legal aid. There could be areas where people are struggling to find a decent lawyer because firms are closing down. Some firms are just interested in running a business – offering cheap rates but not providing a quality service, they are just processing people through the courts."

The Law Society added that due to the reforms, undertaking legal aid work is no longer viable for some firms.

"There are few areas left in the scope of legal aid and fewer lawyers are taking on the work – due to cuts to fees and their income. It's difficult to make the business case for continuing to do legal aid work. There is growing evidence that

it is difficult to find a lawyer who does legal aid work, particularly for domestic violence matters and housing. The Legal Aid Agency may not be seeing the real gaps or have an accurate picture of what is going on."

RICHARD MILLER, HEAD OF LEGAL AID, LAW SOCIETY

3.3 FREEDOM OF INFORMATION REQUESTS

With regards to the Freedom of Information requests submitted by the TUC on behalf of the Speak Up for Justice campaign, the Ministry of Justice's response was far from satisfactory. Freedom of Information requests were made regarding the following areas:

3.3.1 Additional costs of the legal aid reforms

A Freedom of Information request was submitted asking for information relating to any additional costs to the Ministry of Justice and wider public sector that may have been created as a result of the reduction in government spending on civil and criminal legal aid (for the period April 2014 to February 2016 – see page 12 for details).

In reply, the Ministry of Justice directed us to Treasury minutes dated March 2015 which contain its response to the Public Accounts Committee recommendations on implementing legal aid reforms.³⁹ No additional, more up-to-date information was provided. The Treasury minutes state the following:

"The government disagrees with the [Public Accounts] Committee's recommendation.

"The government does not believe that any wider costs could be meaningfully estimated, and would not plan to do so as part of an impact evaluation. The breadth and reach of the LASPO reforms mean that a meaningful estimate would require isolating the impact of the legal aid reforms from a number of other departmental

policies, such as reforms to family justice and tribunal fees, policies from other government departments, such as changes to the benefits system, and wider societal trends, such as divorce rates or possession claims. It is difficult to conceive of how a meaningful estimate could be accurately produced...

*"Further, it could normally be expected that if other government departments had detected a significant impact on their spending as a result of the reforms, then the impact would have been raised with the Ministry of Justice."*⁴⁰

The government's response to the Public Accounts Committee and our FOI request demonstrates a fundamental flaw in the government's whole approach to justice reforms and, more widely, public services reforms. The reply suggests that public services reforms and budget cuts were not conceived of in a whole-government, cross-departmental way but, instead, in an incoherent and fragmented approach with no baseline measures and plans for monitoring the impacts of the reforms across public services. That we were referred to old information indicates an ongoing, tremendous lack of insight into the significance of collecting data on the wider impacts of the Ministry of Justice's reforms, even with the practical challenges. Furthermore, it remains the case that without this data, the Ministry of Justice cannot evaluate if it has met one of its key objectives of the legal aid reforms, which was to "deliver better overall value for money for the taxpayer".⁴¹ The Ministry of Justice is not even in a position to refute that there could be additional costs of its reforms to taxpayers.

A poll of 1001 GPs commissioned by the Legal Action Group (2014)⁴² to help quantify the impacts of LAPS and other cuts in social welfare law found that:

- » A total of 88 per cent of the GPs questioned believed that patients not being able to access legal or specialist advice about their problems would have a negative impact on their health either to a great extent (48 per cent) or to some extent (40 per cent).
- » The majority of GPs polled believe that there has been an increase in the number of patients who would have benefited from legal and specialist advice in the previous year.



Between 2011–12 and 2015–16 there has been a 99 per cent drop in cases of legal help for debt matters. © G Eber/iStockphoto.com

- » For welfare benefits, 67 per cent of GPs reported an increase in the number of clients needing advice.
- » An increase in patients with debt/financial difficulties and employment problems was reported by 65 per cent of respondents.
- » More than 50 per cent of GPs surveyed saw an increase in the need for housing and community care advice.

The poll's findings indicate that scope changes to civil legal aid introduced through LASPO can have health-related knock-on costs for the NHS and other government departments. In addition, information previously cited from our interviewees also suggests that not being able to access timely help and advice is negatively affecting the mental health of some of those using their services.

3.3.2 Domestic violence cases – legal aid applications and litigants in person

A Freedom of Information request was submitted asking for information about the number of cases relating to domestic violence that involved LiPs during the periods 1 January–31 December 2011 and 1 January–31 December 2015.

The Ministry of Justice's response was not particularly clear or helpful:

"I can confirm that... the Ministry of Justice holds the information that you requested. However, the data is not held in the format that you require and for that reason the cost of complying with your request would exceed the limit set by the Freedom of Information Act".

However, the Department also goes on to say:

"This database holds information on offences provided by the statutes under which proceedings are brought, but not all the specific circumstances of each case. It is not possible to separately identify from centrally held data the relationship between victim and defendant; hence it is not possible to separately identify which offenders' threatening behaviour, violence or abuse between adults constituted a domestic abuse offence. These details are not reported to Justice Statistics Analytical Services due to their volume and complexity."

Given the documented rise in LiPs in family courts, and concerns that have been expressed for some time about the impacts of the government's reforms on access to justice for women who have experienced domestic violence or who are at risk, the government should be collecting and analysing data to monitor for any changes in this area. This would help give an indication of whether more vulnerable women are having to represent themselves, which would alert the Ministry of Justice to any problems with accessing the support and representation they need.

In addition, we requested to know the number of applications for legal aid made by victims of domestic abuse, and the number of these individuals that were refused legal aid during the same periods, 1 January–31 December 2011 and 1 January–31 December 2015. The purpose of this request was to map any changes pre- and post-LASPO. No specific response to this request was provided and in general we were referred to existing statistics.



Legal aid-supported cases relating to immigration (nationality and visits) have fallen by nearly 100 per cent between 2011–12 and 2015–16.
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3.4 ANALYSIS OF LEGAL AID STATISTICS

In the absence of data that we requested from the Ministry of Justice, we analysed some of the available statistics published by the Legal Aid Agency.

We looked at the period starting in 2011, as this was consistent with what we had requested from the Ministry of Justice (see Table 3). Although the Ministry of Justice state that domestic violence was not affected by scope changes in LASPO and so did not show large decreases in volume when the Act was introduced,⁴³ there has been a consistent decrease in the number of applications received and granted for domestic violence when comparing pre- and post-LASPO periods. Our analysis shows that between 2011–12 and 2015–16 applications for legal aid relating to domestic violence decreased by 16 per cent, and applications granted fell by 17 per cent. Information from our interviews indicates that women who experience domestic violence are facing barriers to accessing legal aid, and this is corroborated by evidence previously cited. The reasons for the decreases in applications made and granted need to be thoroughly investigated by the Ministry of Justice.

Table 3: Domestic violence, applications received and granted by the Legal Aid Agency⁴⁴

Category/Financial year	Domestic violence applications received	Domestic violence applications granted
2011–12	17,652	16,260
2012–13	17,405	15,723
2013–14	16,921	15,380
2014–15	15,665	13,876
2015–16	14,790	13,439
Change (volume)	–2,862	–2,821
Change (%)	–16.21	–17.35

Table 4: Legal help/controlled legal representation matters started⁴⁵

	Debt	Housing	Immigration – nationality and visits
2011–12	102,065	101,903	28,221
2012–13	76,766	85,145	22,506
2013–14	2,375	47,131	67
2014–15	1,383	42,882	21
2015–16	691	39,305	6
Change (volume)	–101,374	–62,598	–28,215
Change (%)	–99.32	–61.43	–99.98

Our interviews also highlighted the impacts of the government’s reforms to the scope of legal aid on social welfare law, which they stated has resulted in people finding it harder to obtain help and representation when they need it. Table 4 shows the changes in legal help and controlled legal representation matters started for debt, housing, and immigration cases relating to nationality and visits for the period 2011–12 to 2015–16.

The government’s reforms to civil legal aid intended to remove several areas from its scope (see page 34), and our analysis shows that this has had an inevitable decrease in people being able to access help and/or representation. Although the government set up a mandatory telephone gateway for legal help for debt (as well as special educational needs and discrimination), the data indicates that there has been a 99 per

cent drop in cases since 2011–12. The drop in cases does not necessarily reflect a decline in the need for help and advice on debt matters. According to recent research by the TUC, more than a million families with a household income below £30,000 are in extreme debt. Total unsecured debt for UK households rose by £48bn between 2012 and 2015, and wage stagnation is making the problem worse. There are 3.2 million households (equivalent to 1 in 8 households) in ‘problem debt’,ⁿ and 1.6 million households in ‘extreme problem debt’,^o equivalent to 1 in 16 households.⁴⁶

ⁿ Problem debt is defined as paying out more than 25 per cent of gross household income on unsecured debt repayments

^o Extreme problem debt is defined as paying out more than 40 per cent of gross household income on unsecured debt repayments

»» CASES RELATED TO HELP AND REPRESENTATION ON HOUSING MATTERS HAVE DECLINED BY OVER 60 PER CENT SINCE 2011–12, HOWEVER, THE NUMBER OF PEOPLE LIKELY TO REQUIRE ASSISTANCE HAS INCREASED.◀◀

Our analysis also shows that cases related to help and representation on housing matters have declined by over 60 per cent since 2011–12, however, the number of people likely to require assistance has increased. In 2015, over 3,500 people slept rough on any one night in England, for example, which is a 64 per cent increase since 2011.⁴⁷ According to Crisis, 114,790 households applied to their local authority for homelessness assistance in 2015–16, an 11 per cent rise since 2010–11.⁴⁸ In 2015, the number of tenants evicted by bailiffs reached a 15-year record high, with government statistics showing that 42,728 people were forcibly removed in that year alone.⁴⁹ Clearly, there is an increasing need for help and representation regarding housing matters, and the provision of help at crisis point is likely to have a social cost as well as a financial one for families and public services. This is another reason why the Ministry of Justice needs to monitor the impact of its reforms on the wider public sector.

Since 2011–12, immigration cases relating to nationality and visits have declined by nearly 100 per cent. LASPO took almost all immigration work out of scope for legal aid, with only asylum, human trafficking, immigration detention, victims of domestic violence and judicial review remaining. In our interviews, concerns were raised about the difficulties people are facing in obtaining immigration advice.

CONCLUSION AND RECOMMENDATIONS

Overwhelmingly, the response from our staff survey and interviews with experts in the field support the view that LASPO, reforms to court services and budget cuts have had a detrimental impact on access to justice, including on those most vulnerable in our society. In particular, LASPO has had a devastating impact on women's access to justice, and findings indicate that the reforms are putting women who have experienced or are at risk of experiencing domestic violence at greater risk, along with their children. Our findings also indicate that these changes have negatively affected the ability to deliver justice fairly, effectively and efficiently – which raises fundamental questions about the very basis of the reforms and their intended outcomes.

We acknowledge that this report has not covered the impacts of all areas of the government's reforms such as changes to the Criminal Injury Compensation Scheme, increases in court fees and the prohibitive costs of employment tribunals. However, we believe that the impacts are no less damaging to access to justice.

Based on the evidence in this report, we recommend the following:

- » The government should ensure that access to legal aid is based on need and enables people to enforce their human right to justice.
- » The Ministry of Justice should carry out immediate and in-depth assessments of the impacts on access to justice of budget cuts, LASPO and reforms to court services. These should be done in collaboration with trade unions, other organisations with expertise in this field, those who use the justice system, and other government departments. The assessments should include:
 - the impacts on equalities, and whether LASPO enables the UK to meet its obligations under ratified international conventions
 - the wider impacts on access to justice
 - the wider costs to the public sector and knock-on costs of the reforms
 - the impacts on court services and on the ability of the justice system to deliver justice fairly, effectively and efficiently.
- » There should be a moratorium on further budget and staffing cuts in the justice sector, until the above assessments have been carried out.
- » There should be a pause on any further court closures until the government assesses the impacts of the last round of closures on access to justice, and on the potential impacts of the current round of closures. Technology should be developed in collaboration with staff and fully tested before being rolled out across court services.
- » Justice services should be seen as inter-connected and inter-dependent and based within the context of wider public services. Therefore any reforms should be viewed within a whole-system approach. The justice system should be recognised as a public service and a public good, and future government reforms should always take an evidence-based approach.

REFERENCES

1. The Lord Chief Justice's Report, Judiciary of England and Wales, 2015. www.judiciary.gov.uk/wp-content/uploads/2016/01/lcj_report_2015-final.pdf.
2. Ministry of Justice Annual Report and Accounts 2010–11, Ministry of Justice, 2011. www.gov.uk/government/uploads/system/uploads/attachment_data/file/217243/Ministry_of_Justice-annual-report-accounts-2010-11
3. Ministry of Justice Annual Report and Accounts 2015–16, Ministry of Justice, 2016. www.gov.uk/government/uploads/system/uploads/attachment_data/file/535530/moj-annual-report.PDF
4. Submission of the Law Society of England and Wales to the Labour Party Review of Legal Aid, The Law Society, 2016.
5. Ministry of Justice Annual Report and Accounts 2010–11; Ministry of Justice Annual Report and Accounts 2015–16.
6. Annual Report and Resource Accounts 2015–16, Crown Prosecution Service, 2016. www.cps.gov.uk/publications/docs/annual_report_2015_16.pdf
7. Ministry of Justice Annual Report and Accounts 2010–11, *op cit*.
8. Annual Report and Resource Accounts 2010–11, Crown Prosecution Service; Annual Report and Resource Accounts 2015–16, Crown Prosecution Service.
9. Consultation on proposals for the First-tier Tribunal (Immigration and Asylum Chamber) and Upper Tribunal (Immigration and Asylum Chamber) fees, Ministry of Justice, 2016. <https://consult.justice.gov.uk/digital-communications/first-tier-tribunal-and-upper-tribunal-fees>.
10. Impact of Changes to Civil Legal Aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Eighth Report of Session 2014–15, House of Commons Justice Select Committee, 2015.
11. *Ibid*.
12. Tackling the Advice Deficit: a strategy for access to advice and legal support on social welfare law in England and Wales, The Low Commission, 2014.
13. *Ibid*.
14. Implementing reforms to civil legal aid, House of Commons Public Accounts Committee, 2015.
15. Implementing reforms to civil legal aid, National Audit Office, 2014.
16. Evidencing domestic violence: nearly three years on, Rights of Women, Women's Aid, Welsh Women's Aid, 2015.
17. United Nations Convention on the Elimination of All Forms of Discrimination against Women, 2015. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en
18. Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, Committee on the Elimination of Discrimination against Women, 2013.
19. Access denied, Simpson Millar Solicitors, *The Review*, no.183, p.38, 2016.
20. Austerity Justice, Hynes, S., cited in *Magna Carta Today? Unite the Union and Goldsmiths University of London*, 2015.
21. Towards a business case for legal aid, Citizens Advice, cited in *Magna Carta Today?*, *op cit*.
22. Implementing reforms to civil legal aid, National Audit Office, 2014.
23. Cited in Litigants in person facing miscarriages of justice, *New Law Journal*, 4 December 2014. www.newlawjournal.co.uk/content/litigants-person-facing-miscarriages-justice
24. Litigants in person in private family law cases, L. Trinder *et al.*, Ministry of Justice Analytical Series, 2014.

25. Legal aid cuts creating new advice deserts, Fouzder, M, *The Law Society Gazette*, 18 April 2016.
26. Evidencing domestic violence, *op cit*.
27. Proposal on the provision of court and tribunal estate in England and Wales, HM Courts and Tribunals Services, 2016.
28. Written Ministerial Statement made by the Parliamentary Under-Secretary of State for Justice, Minister for the Courts and Legal Aid, Shailesh Vara, HM Courts and Tribunals Service estate, February 2016. www.gov.uk/government/speeches/hm-courts-and-tribunals-service-estate
29. Courts to undergo £1bn digital reform after successful pilots, Boycott, O, *The Guardian*, 15 September 2016. www.theguardian.com/law/2016/sep/15/courts-to-undergo-1bn-digital-reform-after-successful-pilots
30. Court Closures, House of Commons, Hansard, 24 March 2016. www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160324/debtext/160324-0002.htm#16032433000001
31. Proposal on the provision of court and tribunal estate in England and Wales, *op cit*.
32. Court Closures, Hansard, *op cit*.
33. Courts: Closures, Written Question 19301, 9 December 2015. www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-12-09/19301
34. Ministry of Justice Annual Report and Accounts 2015–16, *op cit*.
35. Ministry of Justice Annual Report and Accounts 2010–11; Ministry of Justice Annual Report and Accounts 2015–16; Annual Report and Resource Accounts 2010–11, Crown Prosecution Service; Annual Report and Resource Accounts 2015–16, Crown Prosecution Service.
36. *Ibid*.
37. *At what price? The impact of employment tribunal fees*, Trades Union Congress, 2014.
38. *Evidencing domestic violence: nearly three years on*, *op cit*.
39. Implementing reforms to civil legal aid, House of Commons Public Accounts Committee, *op cit*.
40. Treasury Minutes, Government responses on the Twenty Fifth to the Twenty Ninth, the Thirty First to the Thirty Second, the Thirty Fourth, the Thirty Sixth, and the Thirty Eighth to the Fortieth reports from the Committee of Public Accounts, Session 2014–15, HM Treasury, 2015.
41. Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, Eighth Report of Session 2014–15, House of Commons Justice Select Committee, 2015.
42. Healthy Legal Advice, findings from an opinion poll of GPs, Legal Action Group, 2014.
43. Legal Aid Statistics in England and Wales, January to March 2016, Ministry of Justice Statistics bulletin, 20 June 2016.
44. Legal Aid Statistics England and Wales, tables Jan to Mar 2016, Legal Aid Agency, 2016. From Tables 6.1 and 6.2. www.gov.uk/government/statistics/legal-aid-statistics-quarterly-january-to-march-2016
45. *Ibid*., from Table 5.1.
46. Britain in the Red: why we need action to help over-indebted households, Trades Union Congress, 2016.
47. Definition and numbers, Crisis. www.crisis.org.uk/pages/homeless-def-numbers.html
48. *Ibid*.
49. Mortgage and Landlord Possession Statistics Quarterly, England and Wales, October to December 2015, Ministry of Justice Statistics bulletin, February 2016.

APPENDIX: AN OVERVIEW OF LASPO CHANGES

This appendix includes some changes that were introduced under the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO, 2012). Detailed information can be found at www.legislation.gov.uk/ukpga/2012/10/contents/enacted

LASPO reversed the position whereby legal aid is accessible for all civil cases other than those excluded by the Access to Justice Act 1999. Whole categories of law have been taken out of scope for legal aid; others only qualify if they meet certain criteria.

The categories now out of scope include:

- » family cases where there is no proof of domestic violence, forced marriage or child abduction
- » immigration cases that do not involve asylum or detention
- » housing and debt matters unless they constitute an immediate risk to the home
- » welfare benefit cases; except appeals to the upper tribunal or high court
- » almost all clinical negligence cases
- » employment cases that do not involve human trafficking or a contravention of the Equality Act 2010.

There are three major changes regarding eligibility:

1. Passporting benefits – all applicants will be subject to means testing regarding their capital. Therefore, those on passporting benefits will only be passported in respect of the income part of the means test.
2. Subject matter of the dispute (SMOD) disregard will be capped at £100,000. This will apply for all levels of service including controlled work / legal help.
3. Contributions – the levels of income-based contributions will be increased to a maximum of approximately 30 per cent of monthly disposable income.

EXCEPTIONAL CASE FUNDING

Under LASPO, if a case is out of scope under schedule 1, it may still be possible to get legal aid for it if failure to provide funding would mean that the client's human rights would be breached.

SOURCES

Legal aid in England and Wales: what is changing? Emma Howard, 9 September 2014, *The Guardian*. www.theguardian.com/law/datablog/2014/sep/09/legal-aid-in-england-and-wales-what-is-changing

Legal aid changes: key information and advice, The Law Society, 13 March 2013. www.lawsociety.org.uk/support-services/advice/articles/legal-aid-changes-key-information-and-advice/



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