



No Justice in the Capital?

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About Revolving Doors Agency

- Revolving Doors is a national charity that has been working for 25 years to change systems and improve services for people in the revolving door of personal crisis and crime.
- People in the revolving door are characterised by repeat low-level, nonviolent offences, such as theft and minor drug offences, linked to multiple underlying problems, including mental ill health, problematic substance use, homelessness and domestic abuse. Their health, care and offending-related needs go hand in hand with persistent poverty, long-term unemployment, trauma and social exclusion.
- We bring independent research, policy expertise and lived experience together to support effective solutions to end the revolving door.
- We work with policy-makers, commissioners, local decision-makers, and frontline professionals to share evidence, demonstrate effective solutions, and change policy, while involving people with direct experience of the problem in all our work through lived experience forums based in London, Birmingham, and Manchester.

About Trust for London

- Trust for London is one of the largest independent charitable foundations funding work which tackles poverty and inequality in the capital. We support work providing greater insights into the root causes of London's social problems and how they can be overcome; activities which help people improve their lives; and work empowering Londoners to influence and change policy, practice and public attitudes.
- Annually we provide over £8 million in grants and at any one point support around 300 organisations undertaking charitable work.

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Executive Summary

“Poverty accounts for a lot”

“There is no justice in the justice system”

These are the exact statements of two of our forum members describing their experiences of seeking legal advice and legal aid. They were left behind in what they describe as a ‘two tier justice system’, after not being able to afford solicitors’ fees when they were faced with the possibility of losing their homes, their children and benefits, and having to represent themselves in a justice system that is not designed with their legal knowledge and understanding in mind.

This briefing shows that their experiences were, sadly, not unique. Legal aid cuts mean growing numbers of people struggle alone, managing multiple problems such as mental ill health, homelessness, domestic abuse, debt, discrimination, problems with benefits or immigration often simultaneously, navigating a complex justice system they do not understand, feeling ignored and abandoned.

This small-scale study of legal support gathered the perspectives of 30 London Forum Members with lived experience of revolving door of personal crisis and crime. We asked them about their experiences of seeking assistance in London for cases that should be eligible for legal aid under the LASPO regime.¹

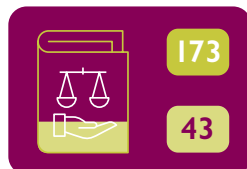
We found:



Among 30 participants, a total of **173 civil legal problems** were experienced in the last five years



The most frequently experienced problems were issues relating to **family disputes, especially the care of children and housing problems**



Of these **173 problems, legal support were sought for 43 issues**. In other words, people in the revolving door **did not seek legal support for at least three quarters of civil law cases**.



The rate of accessing legal aid is even much lower.

¹ The full list are available in the methods or <https://www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid/>

Evidence from one national study which suggests there are at least 7,000 individuals experiencing a combination of substance misuse, offending, and homelessness across London each year.² If this sheer volume of legal problems experienced by our forum members are representative of Londoners who are caught in the 'revolving door', then we can estimate that since the introduction of LASPO:



50,000 civil legal problems experienced by this small population, and...



An astonishing **37,500 legal problems** in areas of housing, family law, social care, welfare benefits, and immigration had to be dealt **without any legal support**.

Whilst the vast majority of people who were arrested, charged or questioned by the police sought and received legal support, there were huge disparities in other areas of law:



4 in 5 experiencing domestic violence did not seek legal support, as they found it difficult to provide evidence to demonstrate their victim status



3 in 5 who wanted to appeal to a benefits decision did not do so, because they felt there was no help available to them.



Over half did not seek legal support for housing problems, including cases of serious disrepair and unlawful eviction.

² Fitzpatrick, S.; Bramley G., et.al. *Hard Edges: Mapping severe and multiple disadvantage- England*. London: Lankelly Chase Foundation http://lankelly-chase.org.uk/wpcontent/uploads/2015/01/Hard_Edges_Appendices_FINAL.pdf Figures likely to be an underestimate for the revolving door population, as the estimates are based on service access rates for homelessness, offending and substance misuse treatment; and do not take into account those who either did not present to all of these services and those who presented to other services (mental ill health, domestic violence, etc.).

Interviews with people with lived experience highlighted that the cuts in legal aid not only diverted them away from litigation but also from mediation and alternate dispute resolution. Many participants told us they came to accept problems such as domestic abuse, homelessness, discrimination as an 'ordinary experience' or a 'part of life', rather than legal disputes. In fact, none of the participants in this small study were able to identify issues that constitute a legal problem, unless they had been previously advised by friends, family or support workers to seek advice from a solicitor. Indeed, we found a heavy reliance on informal information and support networks.

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This detrimental combination of lack of legal knowledge, social and digital exclusion, rejection for legal support and its contagious deterrent effect were main barriers for people in the revolving door in accessing justice.

Participants also suggested that having to deal with such serious problems without any legal aid, put them not only in significant emotional strain but also greater at risk of offending.

As a result of these experiences, many people in the revolving door feel let down by the legal profession and the justice system more broadly. Their accounts of 'two-tier justice system' is particularly worrying.

The Ministry of Justice has recently published their five-year review of LASPO alongside a new strategy to deliver better support for people who experience legal problems. The strategy has a clear focus on early intervention to resolve problems before they escalate. However, it recognises that "more needs to be done to understand what types of support work best, at what time, and for whom" (p.5). With an aim to focus on placing people at the heart of a new system for legal support, this briefing highlights the need for greater legal education, early legal advice as well as legal aid for the people in the revolving door to address the power imbalances and achieve equal justice in the capital and beyond.

Introduction: Policy background

Part I of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) was intended substantially to reduce the civil legal aid budget by removing whole areas of law from scope and changing the financial eligibility criteria. In the accompanying Equality Impact Statement, MoJ set out the objectives LASPO 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; and deliver better overall value for money for the taxpayer”³

Before the introduction of LASPO, legal aid was available for all civil cases other than those excluded by the Access to Justice Act 1999. This was reversed by LASPO. Consequently, entire areas of civil law were taken out of scope, including:

- family cases, where there is no proof of domestic violence, forced marriage or child abduction,
- welfare benefit cases, except appeals to Upper Tribunal or High Court,
- immigration cases that do not involve asylum or detention
- most housing and debt matters that do not concern human trafficking or the Equality Act 2010.

Since the introduction of LASPO, some of the known rates of key issues affecting people in the revolving door include:

- *99.5 per cent reduction in the number of people in legal assistance for benefits cases- down from 83,000 in 2012-13, to just 440 in 2016-17*⁴
- *Over 50 per cent reduction in housing cases during a period in which rough sleeping, statutory homelessness and evictions from rented accommodation are all on the rise.*⁵
- *Two third reduction in the rates of family mediation*⁶, as well as a 42 per cent leap in people representing themselves in family law proceedings after being refused legal aid – from 45,000 in 2012-13 to 64,000 in 2016-17;

Whilst all criminal cases remain within the scope of the criminal legal aid scheme (subject to Interests of Justice test and financial means testing), fees for criminal cases have been dramatically eroded.

The Justice Select Committee’s recent review of criminal legal aid⁷ concludes the changes to legal aid “*risk eroding rights to legal advice and representation, tarnishing the reputation of our justice system, and undermining the rule of law – risks that can no longer be ignored.*”

3 Justice Select Committee. 2015. “Impact Of Changes To Civil Legal Aid Under Part I Of The Legal Aid, Sentencing And Punishment Of Offenders Act 2012”. London: HoC. <https://publications.parliament.uk/pa/cm201415/cmselect/cmjust/311/31104.htm>

4 Merrick, Rob. 2017. “Legal Aid Cuts Trigger 99.5% Collapse In Numbers Receiving State Help In Benefits Cases”. The Independent, 31 October 2017. <https://www.independent.co.uk/news/uk/politics/legal-aid-cuts-benefits-cases-state-help-dla-esa-ministry-justice-disability-living-allowance-a8028936.html>.

5 Pepin, Sarah. 2018. “Housing And Legal Aid”. London: House of Commons Library, p.9 <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP-2018-0120>

6 Fouzder, Monidipa. 2017. “Mediation Decline May Be Due To Legal Aid Cuts, Government Admits”. The Law Gazette, 30 May 2017. <https://www.lawgazette.co.uk/law/mediation-decline-may-be-due-to-legal-aid-cuts-government-admits/5061817.article>.

7 The Justice Select Committee. 2018. “Criminal Legal Aid”. London: Commons Select Committee. <https://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/news-parliament-2017/criminal-legal-aid-report-published-17-19/>

Similarly, the Law Society's recent report *Civil and Criminal Solicitors' Views on LASPO*⁸ similarly concludes that:

- "Solicitors are routinely having to turn away people needing legal representation because funding is no longer there for legal aid.
- Even those on the lowest incomes who are eligible for legal aid are excluded from accessing justice if they have savings or assets, such as the roof over their head.
- Working people on low incomes accused of wrongdoing are being systematically denied their right to a fair trial, because they are not being provided with representation even when they clearly cannot afford to pay for it themselves".

Furthermore, the Bach's Commission's paper *Access to Justice* notes the impact of this 'hopelessly disruptive system' on those with 'chaotic lives'⁹ pointing to the increased bureaucracy as a fundamental barrier to accessing legal aid as one example.

Taken together, the post-LASPO landscape puts people in the revolving door at particular risk: we know for this group, crime cannot be divorced from the problems they experience with debt, employment, welfare benefits, domestic abuse and housing. Retaining help with criminal legal aid alone, without any support with civil cases, is unlikely to address the root causes of crime.

8 The Law Society. 2018. "<https://www.lawsociety.org.uk/news/press-releases/access-to-british-justice-increasingly-only-for-the-few/>". <https://www.lawsociety.org.uk/news/press-releases/access-to-british-justice-increasingly-only-for-the-few/>.

9 Brooke, Henry. 2018. "Bach Commission On Access To Justice". Appendix 2. London: Bach Commission. <https://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission-Appendix-2-F.pdf>. p.14

Methodology

This report draws from:

- Desktop review of the impact of LASPO on people in the revolving door of crisis and crime
- A workshop at our Lived Experience Forum in London to understand the experiences of people in accessing early advice and legal aid, and how these can be improved in the future.
- A survey with 30 members of our London Lived Experience Forum to understand the level of legal problems experienced and the level of seeking legal advice in the last five years. In the survey, we supplied participants with a list of situations they might need legal advice or assistance and asked them which one of these issues they had experienced in the past five years (since the introduction of LASPO) and which issues they had sought legal advice or legal aid for. The list included legal issues related to:
 - *Criminal justice*, including being arrested, charged or questioned by the police;
 - *Family matters*, such as mediation to resolve disputes about children and finance, domestic abuse and violence, social services being involved with children, or if the child has been (or is about to) be taken out of the country without their consent;
 - *Housing and homelessness*, such as possession proceedings and eviction, unlawful eviction, homelessness, serious disrepair; anti-social behaviour cases;
 - *Debt*, including being at risk of losing home due to rent or mortgage arrears or a creditor making them bankrupt;
 - *Benefits*, such as problems with disability related benefits (PIP, DLA and ESA, Job Seeker's Allowance or Universal Credit and council tax reduction);
 - *Mental health law*, advice upon being made subject to the Mental Health Act, representation at mental health tribunals;
 - *Discrimination*
 - *Health and social care*, such as problems with a service from the local authority, and or the NHS because of illness, disputes about the quality of care in residential, nursing homes and hospital;
 - *Immigration* including asylum applications, detention, visa/asylum after domestic abuse; applying to stay as a victim of trafficking.
- We also carried out in depth interviews and focus groups with 15 people to explore barriers and enablers for accessing legal advice and legal aid and how the system can be improved better to serve their needs.

Key findings

I. Legal problems and seeking help

We found:



Among 30 participants, a total of **173 civil legal problems** were experienced in the last five years



The most frequently experienced problems were issues relating to **family disputes, especially the care of children and housing problems**



Of these **173 problems, legal support were sought for 43 issues.** In other words, people in the revolving door **did not seek legal support for at least three quarters of civil law cases.**



The rate of accessing legal aid is even much lower.

Whilst the vast majority of people who were arrested, charged or questioned by the police sought and received legal advice, there were huge disparities in other areas of law:



4 in 5 experiencing domestic violence did not seek legal support, as they found it difficult to provide evidence to demonstrate their victim status

“I grew up in a home with domestic abuse. My partner was violent towards me and my children. I didn’t ask for legal advice, I didn’t think anyone could help me.”



3 in 5 who wanted to appeal to a benefits decision did not do so, because they felt there was no help available to them.

“You’ve got no chance. Once the Job Centre makes a decision, it’s final.”



Over half did not seek legal support for housing problems, including cases of serious disrepair and unlawful eviction.

These responses highlight that the cuts in legal aid not only diverted them away from litigation but also from mediation and alternate dispute resolution.

II. Lack of legal knowledge

At the start of our consultation and interviews, we asked participants to “*imagine a situation, where [they] might need a lawyer*” in order to understand if they can navigate their way through challenging times they regularly face, including difficulties at work, domestic abuse, problems with families, being denied benefits, homelessness and criminal justice. None of the participants in this small study were able to identify what constitutes a legal problem, *unless* they had been previously advised by friends, family or support workers to seek advice from a solicitor.

For many, problems such as being subject to the Mental Health Act, experiences of domestic abuse, having children taken into care, problems with benefits, debt and homelessness were so common that they were seen as ‘part of life’ rather than ‘legal matters’ they need assistance with.

Similarly, the majority of our London Lived Experience Forum members who took part in this consultation, did not understand the scope of legal aid.

“I didn’t realise there was help out there for me – the only legal aid I thought I was entitled to was when I was arrested”

With the exception of one person who took part, participants did not know about digital services such as the government’s own legal aid entitlement checker¹⁰ and said they were not likely to use online services to find out about legal aid providers.

III. Importance of informal information to access justice

We found there was a heavy reliance on informal information and support networks made up of friends and family. In one focus group, a woman with serious debt issues explained that she only sought help for council tax debt, having heard from a friend that council tax avoidance is an imprisonable offence. A man told us he sought representation at the mental health tribunal, after being advised by one of her support workers that he could be entitled for legal aid.

In 85% of cases that received legal aid, people in the revolving doors found their legal representative recommendations from friends and family.

The remaining 15% were found through keyworkers in drug/alcohol or homelessness services, or luck (one interviewee was approached by a solicitor on the road she lived on).

¹⁰ <https://www.gov.uk/check-legal-aid>

This raises serious concerns for those who find themselves without the informal support network that so many rely on for information. Furthermore, our previous research shows that people in the revolving door (as with many people who are socially excluded) are also digitally excluded, and therefore they would struggle to use online search engines to find legal advice and representation.

IV. Frequent rejection for legal aid and its contagious deterrent effect

Frequent rejection for legal aid: Consistent with the sector evidence, we found that many forum members had been denied legal aid. This was most commonly mentioned in relation to family disputes. For instance, one man explained how he could not access legal aid for a custody dispute over his son despite being out of work and living off benefits. He attempted to raise the funds himself but was unsuccessful.

The contagious deterrent effect of legal aid rejections: Many forum members who have been denied access to legal advice were dispirited and became less likely to seek help in the future, even if future problems are distinctly different in nature from the problem for which they were denied legal aid. Part of this confusion stemmed from solicitors failing to fully explain *why* a particular case was not eligible for legal aid.

Word of mouth recommendations from informal networks can also have contagious deterrent effect. For example, one woman told us she found having to serve papers to her abuser by herself in court when seeking a no-visitation order for the safety of her children. She told us this was so traumatic that she would actively discourage her friends from seeking legal aid for domestic violence.

V. Concerns about the legal aid climate

Even though no question was ever posed regarding the *change* to the scope of legal aid, this was a recurring theme throughout the consultations. There was an acute awareness that *“it’s not like what it used to be”*, without referencing LASPO or specific changes to the legal regime.

The severe limitations on legal aid in civil law cases was noted:

“It’s difficult to get help for housing, family, anything like that – other than the criminal justice system”.

The burden placed on the third sector was also observed:

“They’ve cut a lot of cost so you have to go and find charities that can give you advice, like the Citizen’s Advice Bureau, but in terms of legal representation, you rarely get it now”.

When participants had positive experiences with accessing legal aid, there was a distinct sense that they felt like their experience was anomalous, suggesting that they had been “fortunate” and that “it’s pot luck”.

VI. Concerns about legal profession and the justice system

Overwhelmingly, participants felt let down by the legal profession. However, several reported positive experiences with legal aid lawyers and there was almost unanimous sympathy for solicitors and barristers in the current climate, with comments recognising that *“they don't have the resources, that's why they can't give the service they want to”*.

Another concern about the changes to legal was a broad sense of injustice. Many forum members compared their experiences with the justice system to what they hear and read in mainstream media and often they are confronted with images and stories which invoke a real feeling of injustice. For instance, members of the focus group brought up the case of Lavinia Woodward, an Oxford medical student who received a suspended sentence for stabbing her boyfriend with a bread knife. They felt that this was a clear demonstration of the way that *“middle-class white people get away with more”* and argued that, in light of cases such as this, providing high quality legal representation for the people caught in the revolving door is essential in order to address the power imbalances and social injustices caused (and reproduced) by the legal system. Many considered, the existence of a two-tier legal system indisputable, as *“poverty accounts for a lot”* and *“there's no justice in the justice system”*.

These feelings of mistrust and resentment were typified in the interviews when participants were asked whether they would choose to represent themselves in court. There was an equal split between those who would take the opportunity and those who would not, but the rationale for both camps was borne out of a distrust for the legal system and legal professionals:

- Those who would choose to represent themselves felt that *they* are best placed to explain the details of their personal circumstance than barristers who *“don't know [them] and don't care about [them]”*.

“I know the truth and sometimes these judges need to hear a different language”.

- For those who would refuse to represent themselves, the reasoning centred around feelings of exclusion in legal settings. For instance, the inaccessibility of the terminology (“legalese”), the feeling that many barristers look and sound the same as each other; and a sense that the odds are stacked against them anyway and judges would not be interested in what they had to say.

VII. Improving access to justice for people in the revolving door

There is no doubt that the legal aid sector is in crisis and the profession is populated mostly by those who are passionate about access to justice. However, the accounts of people with lived experience who took part in this study highlights their wariness about the way legal aid lawyers are currently dealing with the caseloads and the significant concerns about not being able to access justice.

We asked people with lived experience what legal aid lawyers need to do differently to address their concerns. Their responses highlighted the need for:

- **Clear communication:** Whilst it is very likely that the solicitors do not instruct their clients to 'go no comment' in police interviews as a matter of course but, rather, assess all the factors at the police station, this was not understood by the people we consulted. Several people in the focus group felt that they were instructed to say 'no comment' by duty solicitors during police interviews because it was the "easy option" for the solicitor. The solicitor's reasoning was not explained to the clients who were left feeling as though they had been coerced into incriminating themselves.
- **Being listened to:** Many forum members felt that legal aid lawyers "don't care" because "they just go through the motions, like a tick-box exercise". One participant attributed this to "when someone is in there [court] day in, day out, they lose their passion".
- **Relationship building:** Many participants felt "neglected" by lawyers, often as a consequence of correspondence or opportunity to build relationships prior to the court hearing. Evidence suggests that people in the revolving door, who have experienced trauma in their lives and were frequently failed by services have issues trusting authority figures (and institutions), especially in the absence of reliable and consistent relationships.
- **Challenging the idea that good legal representation has to be bought:** Forum members felt that there was "a two-tier legal system" and good advice and representation was not available to those who could not afford it. One forum member put it as "you can go to a solicitor or barrister and they'll say that if you pay more, they'll work harder"
- **A more representative and inclusive legal profession:** There was a real sense that lawyers are part of "an exclusive club" – that did not look or sound like the people who frequently need their help. Their sense of exclusion was to such to the extent that one forum member claimed defence barristers "make deals down the pub with the prosecutor because they're all friends" while another member reinforced this suggestion by adding that "It's just a game for them. It is! They don't [care] about us!".

Conclusion and next steps

- This briefing based on the experiences of 30 of our London Lived Experience Forum members highlight the need for improving access to justice for people in the revolving door of personal crisis and crime.
- We found on average our forum members have experienced 7.2 problems related to civil law, in addition to the repeated contact with the criminal justice system (from police to courts, prison and probation) and yet they did not seek support with three quarters of these problems.
- If the sheer volume of legal problems experienced by our forum members is representative of Londoners who are caught in the revolving door; we can estimate 50,000 legal problems experienced by this small population in the past 5 years. This would also mean an astonishing 37,500 legal problems had to be dealt without any legal support. The accounts of forum members highlight that the actual rate of receiving legal aid is lower than the application of legal aid.
- The disparities people in the revolving door faces in accessing justice is stark and worrying. Forum members suggest that a detrimental combination of lack of legal knowledge, social and digital exclusion, rejection for legal aid and its contagious deterrent effect are main barriers in accessing equal justice.
- As a result of these experiences, many people in the revolving door feel let down by the legal profession and the justice system more broadly. There is a perception of a 'two-tier justice system'.
- The accounts of forum members highlight more needs to be done to build the trust between people in the revolving door and legal aid lawyers and give them hope that our justice system should be and is just.

This briefing also poses further questions on how we can improve access to justice for people in the revolving door:

- How do we help people to see their problems as legitimate legal concerns and view themselves as equal citizens with rights?
- How do we make legal advice more visible to people in the revolving door, especially considering the level of social and digital exclusion they face?
- If there are changes to the law, as with the reintroduction of some elements of prison law into the fold of legal aid, how do we ensure that those affected are aware of their entitlements?
- Given the time constraints on legal aid lawyers and barristers, how can we accommodate relationship and trust building in legal processes?
- How can legal aid lawyers and barristers communicate better with their clients to avoid misunderstanding of their case or entitlements – for example, better advice on plea deals or 'no comment' interviews?

Our next steps for *Capital Gains* will involve inviting legal aid lawyers to our National Policy Forum to discuss and open dialogue between legal professionals and people with lived experience. We hope this will help to break down misconceptions, build trust and generate possible solutions to problems outlined.

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